IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.2617 OF 2005
IN

CRIMINAL APPEAL NO. 1230 OF 2002

Atul Kantilal Shah ..Applicant

Vs.

State of Maharashtra ..Respondents

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Mr. K.M.Sangani Advocate for Applicant
Ms. S.V.Gajare A.P.P. for the State

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CORAM: SMT.V.K.TAHILRAMANI,J.

DATE : JULY 5,2005

P.C.

1. Heard both sides.

2. The applicant has been mainly convicted under M.C.O.C.Act and sentenced to five years R.I. The appeal preferred by the applicant is pending before this Court.

3. It is stated by the learned advocate for the applicant that the applicant has been in custody for almost four years and hence, on that count, he may be granted bail. It is further submitted that in a similar case, the accused Moin Vajiruddin and others, have been released on bail by order dated 29.7.2002 in Cri.Application No. 1141 of 2003 preferred in Cri.Appeal No. 1271 of 2002. It is further submitted that applicant in the said case were also convicted under the M.C.O.C.Act and had already undergone four years imprisonment hence they were released on bail. I have perused the said order.

4. It is to be noted that the applicant had preferred Cri.Application No. 1146 of 2003 for bail. The said bail application came to be rejected on 25.7.2003. At that time, liberty was granted to the applicant to prepare private paper book and appeal was directed to be fixed for hearing in the second week of December, 2003. It is pertinent to note that paper books have not been prepared by the applicant and it is only on that count the appeal was not fixed for hearing in the

second week of December, 2003. Had the paper books been prepared, the appeal would have been heard in December, 2003 itself. The applicant now cannot take advantage of his own lapse. In this view of the matter, I am not inclined to grant bail.

5. At this stage, it is stated by the applicant that it is not possible to prepare private paper book. In this view of the matter, office to get prepared the paper books expeditiously. The appeal to be placed on final hearing board a week after paper books are ready.

4. Application is disposed of.

[V.K.TAHILRAMANI,J.]